Monday, November 15, 2021

Lori Whatley
583 Palmer Road
Mansfield, Louisiana 71052

Re: **Louisiana Board of Ethics Docket No. 2021-773**
       Advisory Opinion

Dear Mrs. Whatley:

The Louisiana Board of Ethics ("Board"), at its December 3, 2021 meeting, considered your request for an advisory opinion as to whether the Louisiana Code of Governmental Ethics ("Code") would prohibit your husband, William Whatley, from applying for and accepting a Superintendent position with your organizational unit.

FACTS PROVIDED

You are currently an Administrative Coordinator IV with the Louisiana Department of Transportation and Development ("LaDOTD") Maintenance Unit. You have been employed at that position for eighteen (18) years. Your husband, William Whatley, is currently an Engineering Technician for the LaDOTD's Construction Unit and has been for five (5) years. Mr. Whatley would like to apply for a Superintendent position within the Maintenance Unit. The Area Engineer (Steve P. Christner) is the agency head of the Maintenance Unit. The Engineering Technician 7/Maintenance Specialist is the direct supervisor of the Superintendent position that Mr. Whatley is seeking.

LAW

La. R.S. 42:1102(3) defines "agency head" to mean the chief executive or administrative officer of an agency or any member of a board or commission who exercises supervision over the agency.

La. R.S. 42:1102(13) defines "immediate family" as the term relates to a public servant to mean his children, the spouses of his children, his brothers and their spouses, his sisters and their spouses, his parents, his spouse, and the parents of his spouse.

La. R.S. 42:1112(B)(1) states that no public servant shall participate in a transaction involving the governmental entity in which, to his actual knowledge, any member of his immediate family has a substantial economic interest.

La. R.S. 42:1119(A) states that no member of the immediate family of an agency head shall

be employed in his agency.

ANALYSIS

The Area Engineer, Steve P. Christner, is the agency head of the Maintenance Unit. Therefore, if Mr. Whatley accepts the Superintendent position within the Maintenance Unit, he would not become the agency head and thus, La. R.S. 42:1119(A) would not be violated. However, upon accepting the Superintendent position within the Maintenance Unit, Mr. Whatley should take care to avoid a potential violation of La. R.S. 42:1112(B)(1). La. R.S. 42:1112(B)(1) states that no public servant shall participate in a transaction involving the governmental entity in which, to his actual knowledge, any member of his immediate family has a substantial economic interest. In the event the Superintendent is responsible for approving your leave requests, completing performance evaluations, administering discipline, pay increases, promotions/demotions, or any activity that can be considered participation, a Disqualification Plan should be submitted to and approved by the Board, pursuant to La. R.S. 42:1112(C) and Chapter 14 of the Rules of the Louisiana Board of Ethics, a copy of which is attached hereto.

CONCLUSION

The Board concluded, and instructed me to inform you, that based on the facts presented, the Code would not prohibit Mr. Whatley from applying for and accepting the Superintendent position within the LaDOTD's Maintenance Unit, where you are currently employed.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Louisiana Code of Governmental Ethics. The Board issues no opinion as to past conduct or as to laws other than the Louisiana Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Act, and the conflict of interest provisions contained in the Louisiana Gaming Control Law. If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600.

Sincerely,
LOUISIANA BOARD OF ETHICS

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LaToya D. Jordan
For the Board